

Approved as Submitted: April 21, 2004

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL  
AND SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – APRIL 7, 2004**

**CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 5:02 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Sellers and Mayor/Chairman Kennedy  
Late: Council/Agency Members Tate (arrived at 5:03 p.m.) and Chang (arrived at 5:30 p.m.)

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***Redevelopment Agency Action***

**WORKSHOP:**

**1. ROYAL COURT HOUSING PROJECT WORKSHOP**

Director of Business Assistance and Housing Services Toy presented the staff report, requesting direction from the Agency on density, site plan and phasing of the project. He indicated that the issue is whether the Royal Court Apartments should be retained and incorporated into the project or demolished, proceeding with the project as proposed under Measure P. He noted that in December 2002, the Council approved a concept for the project, and on May 2003, the Board approved a loan with South County Housing. At that time, the Board indicated that it would like to see a higher density proposal. When the project was presented to the Planning Commission, they recommended that the project have a commercial presence along Monterey Road. He informed the Board that the applicant submitted an application under Measure P for 52 apartment units, 16 townhomes and a 5,000 square foot commercial building with 6 rental units above it. He stated that a historical survey was conducted for the site and that it was found that the Royal Court Apartments was a precursor to motels as a motor court and that there is a historical significance to this.

Agency Member Tate felt that the community should have a say whether they believe the Royal Court Apartments has a historical significance. He did not believe that anyone would believe there was a historical significance to the building.

Vice-chairman Sellers inquired whether the community could determine the environmental impact under CEQA.

Associate Planner Tolentino indicated that the buildings have been identified as being of historical significance as a motor court based on the year that the motel was built. She felt that input from the community is important. However, by law, the building needs to be reviewed under CEQA regulations as the building has not been altered. She indicated that the City could adopt a mitigated negative declaration and mitigation measures that would reduce the impacts to a level of insignificance by maintaining the building on site or relocating it to another site along Monterey Road so that it remains available for use. Should the City wish to demolish the building, the City would need to conduct an environmental impact report to identify and adopt overriding considerations.

Vice-chairman Sellers felt that the City may have latitude once the relevance of the building has been determined.

Jan Lindenthal indicated that when the results of the historical significance were presented, South County Housing project team looked at the viability of moving the buildings to another site. This would result in the purchase of a site with enough depth so that the buildings could be relocated in their same configuration on Monterey Road. It was estimated that it would cost a minimum of \$1.5 million to purchase a site, relocate and renovate the buildings. Also, studied was how the 10 units would function. Although the project could stand on its own and operate as 10 affordable studio apartments, the \$1.5 million dollars would not be recuperated. She did not believe that this would be a viable option. Reviewed were two alternatives to reuse the buildings on site with the intention of using them as residential units. Another option discussed was whether or not they could be renovated into commercial space. It was felt that the size of the units and the fact that there is not a lot of visibility from Monterey Road would not make them viable from a commercial use stand point. She indicated that assuming the 10 units would not function well as commercial space; it would result in a 56 unit residential project. This would result in a lower Agency contribution, overall, to the project, including the rehabilitation of the existing buildings versus the original scenario. As residential, all costs are tax eligible and there would be rental income from the 10 units. However, there is a challenge associated with the rehab of the 10 units as you do not know what you will find with old buildings.

Chairman Kennedy inquired whether the existing units could be left as is and build the project around it.

Ms. Lindenthal indicated that the units were in poor condition, noting that they are still being rented and occupied today as marginal units. Reusing the buildings and maintaining them as residential would lower the projected Agency contribution by approximately \$700,000 because you would not incorporate a commercial component that does not generate income from a financing stand point. However, there is a potential cost exposure associated with rehabilitating the buildings. Another potential concern is the streetscape and how it is made to work. She said that it is proposed to have a three story building adjacent to one story structures.

Chairman Kennedy felt that there may be a design solution that would be less of a contrast with the existing historical buildings, resulting in the loss of a few units.

Ms. Lindenthal informed the Council that one design resulted in siting residential units all the way up to Monterey Road as it did not make sense to do so in this location. Analyzing the design made it clear

that the commercial component of the project, although it has an advantage from a streetscape stand point, would require a larger Agency investment because lenders do not underwrite commercial income. In one design alternative, you would lose the commercial component unless one of the buildings is modified. She addressed a third scenario that would incorporate a mixed use building along Monterey Road with 5,000 square feet of commercial space, and 16 townhomes along Del Monte Avenue consisting of three story structures. A two story building is proposed to help screen the project from Monterey Road. This design would assume that the buildings are relocated or that the findings can be made that there is no historical significance to the buildings.

David Conroy, project architect, stated that the economics of incorporating a commercial use would drive the costs up higher. He indicated that the project is just meeting City parking standards and that adding commercial would increase the number of required parking spaces. He said that the incorporation of a commercial building would raise other questions about access to parking.

Ms. Lindenthal said that given the way the report was written and its findings, it seems that reasonable experts on the issue might disagree about the significance of the buildings. She informed the Board that a second opinion was commissioned. She recommended that the project proceed with a live/work townhome along Monterey Road that would have a commercial look at the ground floor with residential above as this would increase the viability of the project. Assuming that you can get enough of a commercial look, this would be an alternative to consider that improves the financial viability of this option. However, the City would need to make findings that the buildings were not of historical significance or make findings of overriding concerns through an EIR process, adding cost to the process.

Agency Member Tate did not believe that the buildings were of historical significance and recommended that the historical significance of the buildings be discussed with the Historical Society.

Mr. Toy informed the Council that he spoke with Gloria Pariseau with the Historical Society. She recommended that the City conduct a historical photo survey similar to what was done to the house behind Sinola's Restaurant.

Ms. Lindenthal indicated that 56 units would be proposed if the 10 units are maintained, placing a three story building along Monterey Road. A 48 unit residential project would result if a two story is designed with commercial on the ground floor.

Mr. Conroy felt that the existing buildings would be a challenge to deal with based on their orientation to the street and their proximity to each other.

Agency Member Carr inquired whether Ms. Lindenthal investigated whether the adjacent parcels could be acquired.

Ms. Lindenthal indicated that David Heindal, the project manager, has met repeatedly with the adjacent property owners to try to understand the parameters within which they might be willing to sell or agree to a land swap. She stated that Mr. Heindal has exhausted every creative option that would make sense

to the property owners. She said that one property owner is requesting 45% above market value for his property.

Mr. Heindel indicated that one property owner did not want to sell his property but that he may be willing to trade property.

Mr. Toy said that there is a commercial building adjacent to this project. If the City was to purchase the property for \$1.7 - \$1.9 million, you would only gain a sliver of land.

Chairman Kennedy inquired as to the most important issues that would make the project work or what constraints the Board has placed on the project (e.g., fronting commercial).

Ms. Lindenthal concurred that placing commercial in front of the project is a constraint as it does not help the overall financing of the project. Including commercial would not be as financially beneficial in terms of the overall Agency contribution versus an all residential project.

Mr. Toy informed the Board that it would be difficult to lease 5,000 square feet of commercial along Monterey Road.

Chairman Kennedy recommended that residential be developed toward the rear as it would provide the much needed affordable residential units, indicating that what happens in front would be secondary to this. He stated that he would support residential in front. He noted that there is a hodge podge of commercial-residential in this area but that he did not know if the City would be able to fix this situation as there are property owners who do not want to sell their properties.

Agency Member Chang entered and was seated.

Vice-chair Sellers noted that the Via Ciolino project had an existing business surrounded by commercial north and south. At Jasmine Square, there is office commercial surrounding the property. He said that he was not as willing to give up on the use of the existing building as there is some historical significance to the site. He felt that the commercial viability is minimal, concurring that there is a hodge podge of uses in the area. Maintaining the site for residential has some precedent. He recommended that the design be such that it minimizes the impacts of a three story design. He inquired whether the residential could be opened up, making the project more accessible. He noted that Wright Avenue is a well traveled road and is one of the highest crime streets in town. He was anxious about having this project become another concern in terms of crime and safety for individuals who would reside in the project. Having an open parkway would provide a sense of being a part of the community. An open design would deter undesirable activities from taking place. He felt that it would be an exciting potential to include the rehabilitation of the buildings to make it an attractive residential project, tying the development to Monterey Road versus sequestering it onto Wright and Del Monte Avenues. He stated that he was not as concerned about losing a few units to accommodate such a design. He noted that there were 3-4 units that are currently for sale on Wright Avenue and that there may be an opportunity to acquire these properties. Doing so might reduce crime and other concerns taking place in this area.

Chairman Kennedy felt that it would be a good idea to acquire some of the problem properties as there is a lot of crime associated with the units South County Housing has been trying to acquire. If the City could acquire these properties and have management eliminate some of the crime problems taking place, he would support the idea. He recommended that the parkway concept be retained. He further recommended the design of a single story commercial unit. He felt that the Shell Station may be willing to acquire property to construct a mini mart facility or someone else may be willing to utilize a single story commercial unit.

Agency Member Tate inquired as to the urgency of the action that needs to take place. He inquired whether the project could start on Del Monte, leaving options open.

Ms. Lindenthal said that she would like to proceed with Phase 1, the for-sale townhomes along Del Monte Avenue. She indicated that it would take approximately 24-months to line up the financing for the rental project. She stated that she has 4-6 months to come back with other alternative/scenarios to review as well as the financial implications of these. One scenario that may have some merit is a live-work concept that would achieve economic viability and a mixed use.

Chairman Kennedy stated that he was not tied to the idea of a mixed use concept. He would support having a design featuring the Royal Park Apartment buildings, adding more units similar to these units.

Vice-chairman Sellers said that he would be willing to discuss other options with South County Housing.

Agency Member Carr said that he would hate to lose the commercial portion of the project as he felt that this area was perfect for mixed use. He supported the plaza concept.

Chairman Kennedy recommended that the existing units be retained, making this project an all residential project.

Ms. Lindenthal indicated that the townhouse portion could proceed with a tentative map that would create a remainder parcel. She wanted to receive a sense from the Agency about the importance of preserving the buildings or proceeding with the EIR process.

**Action:**        *It was the consensus of the Agency Board that the project proceeds with Phase I.*

Mr. Toy indicated that it appears that the Agency has agreed to allow the project to proceed with Phase 1 and ask South County Housing staff to return with different concepts.

Chairman Kennedy recommended that staff contact the Historical Society and receive a written opinion on the historical significance of the buildings. Also, the Shell Station proprietor is to be contacted to see if they are interested in a commercial use on the adjacent site.

Agency Member Tate requested that staff discuss this project with the adjacent neighbors to ascertain whether there are concerns associated with a townhome development. He felt that this project may

require more exceptions than were approved for the Watsonville project and wanted to know in advance if there are any concerns.

Ms. Lindenthal noted that the project is being proposed as a one-lot condominium project. It is the entire lot that has to meet setbacks as opposed to each individual lot. You would still have the same deviations, but that there would not be the kinds of variances sought for the Watsonville Road site as they were all individual lots of record as opposed to one large parcel.

Director of Community Development Bischoff recommended that staff be allowed to quantify the exceptions before meeting with the adjacent neighbors.

Ms. Lindenthal indicated that deviation from the parking standards would result in a better site plan. She inquired whether the Agency would be supportive of this deviation. She stated that there is an issue with the townhome as they are rear loaded and that there is not sufficient depth to have driveway aprons. Therefore, there is an issue of making sure that there is surplus guest parking.

Agency Member Chang stated that she does not mind higher density but felt that providing adequate parking is the right thing to do. She did not want to see this become a second class project.

Mr. Conroy said that the City's parking standards for townhomes are about where they should be. However, it is in the affordable rental apartments that there would be a deviation in parking. He stated that he has not counted parking along Del Monte Avenue and that this would result in approximately 660 feet of frontage that would result in an additional 30 parking spaces.

Agency Member Chang did not believe that the City's current parking standards for townhomes/condominium were adequate.

Chairman Kennedy concurred that insufficient parking is a concern as the City ran across this concern with the Watsonville housing project as well as other projects.

## ***City Council and Redevelopment Agency Action***

### **CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session items:

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 4

**2.**

**CONFERENCE WITH LEGAL COUNSEL (POTENTIAL LITIGATION) & CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority: Government Code 54956.8 & 54946.9(c)

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Property:	APN 825-06-002, 003, 029, 030; 36.6 acres (Railroad/Maple - Butterfield Retention Basin Site)
Negotiating Parties:	
For City:	City Manager; Public Works Director; City Attorney; Gale Conner, special counsel
For Property Owners:	Costa Family Partners
Closed Session Topic/Under Negotiation:	Potential Litigation & Price and Terms of Payment

**3.**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8
Property:	215 Tennant Avenue, APN: 817-04-002
Negotiating Parties:	
For City:	City Manager, Director of Public Works, City Attorney, and Attorney Gale Connor
For Property Owners:	Robert and Teresita Carrasco and Bruce Tichinin
Closed Session Topic/Under Negotiation:	Price and Terms of Payment

**4.**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8
Property:	95 Tennant Avenue, APN: 817-04-006
Negotiating Parties:	
For City:	City Manager, Director of Public Works, City Attorney, and Attorney Gale Connor
For Property Owners:	Marko and Klara Gera
Closed Session Topic/Under Negotiation:	Price and Terms of Payment

**5.**

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS**

Legal Authority:	Government Code 54956.8
Property:	145 Tennant Avenue, APN: 817-04-008
Negotiating Parties:	
For City:	City Manager, Director of Public Works, City Attorney, and Attorney Gale Connor
For Property Owners:	Joseph Hernandez, as trustee; et al
Closed Session Topic/Under Negotiation:	Price and Terms of Payment

**6.**

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

Authority:	Government Code section 54954.9(c)
Case Name:	City of Morgan Hill v. VBN Corporation and ABSG Consulting, Inc.; Santa Clara County Superior Court, Case Number: 1-03-CV-008266.
Attendees:	City Manager, City Attorney

**7.**

**EXISTING LITIGATION:**

Legal Authority:	Government Code 54956.9(a)
Case Title:	Bob Lynch Ford, Inc. v. Timothy Paulus, et al
Case Name/No.:	Santa Clara County Superior Court Case No. CV 001657
Attendees:	City Manager, City Attorney

**8.**

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**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Legal Authority	Government Code 54957
Public Employee Performance Evaluation:	City Manager
Attendees:	City Council, City Manager

**OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

**ADJOURN TO CLOSED SESSION**

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:03 p.m.

**RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:03 p.m.

**CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that no reportable action was taken in closed session, indicating that the closed session items were continued to the conclusion of the agenda.

**SILENT INVOCATION**

Mayor/Chairman Kennedy announced that the community recently lost three key citizens and requested that they be remembered: Bonnie Leonetti, Mas Minami, and Marie Skinner.

**PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairman Kennedy, former Council Member John Varela led the Pledge of Allegiance.

**CITY COUNCIL REPORT**

Council Member Tate addressed the recently held election relating to Measure B, a ballot measure that would have extended and slightly raised a parcel tax that supported the operation of the library. He said that this ballot measure did well, achieving 61% of the vote, 5% more than was received on the Gavilan ballot measure. However, 61% is not a high enough percentage for a fiscal measure to pass as 67% is needed. As the ballot measure failed, the Library will need to make cuts. He stated that the quality of service for the library is to be maintained but that there may be cut backs in library hours and programs being phased in at the end of this year. He said that the City is looking at options as the County cannot go out again and seek voter support of another ballot measure within a year. He appreciated the great support that the community of Morgan Hill demonstrated. He stated that the Council has committed that



by the end of June 2004, it will have a plan in place for a site and how the new library is to be funded. He indicated that the City is at a critical point in this process. He stated that the City has been unsuccessful twice in attaining State Proposition 14 bond funding for a new library. Therefore, the City is looking at taking on the construction of a new library and moving forward should the City not receive the third round of bond funding. The City is now looking at a second site, the Sunsweet site located between Third and Fourth Streets, east of Monterey Road. He felt that this may be a viable location. He stated that the Council wants to receive input of where the community believes the library should be constructed. He invited individuals to attend the Library Commission meeting to be held next Monday, April 12, 2004 as presentations will be made on the two designs: the site behind the civic center and the downtown site. There will also be discussions on the approaches for funding for the two different sites. He stated that the May issue of the City Vision, the City's newsletter, will include a four page supplement that describes the library site and seeks feedback. This is an alternative way for citizens to submit their library site preference.

## **CITY COUNCIL SUB-COMMITTEE REPORT**

### **CITY MANAGER REPORT**

City Manager Tewes reported on the contaminate perchlorate that has affected much of South County and some of the City's municipal drinking water wells. He stated that at the Council's direction, staff has been testing the level of perchlorate, if any, in City wells. He reported that the results at the end of March were that all of the City's wells were at the non detect levels. He said that the regulatory framework for perchlorate is changing and that the State of California has recently set the public health goal and action level at 6 parts per billion. At the request of the Council, staff has invited David Ting with the Office of Environmental Health Hazard Assessment and that Dr. Ting will be at the Council's April 21 meeting to make a presentation about the scientific studies that led to conclusions and to answer Council questions.

### **CITY ATTORNEY REPORT**

City Attorney Leichter stated that she did not have a report to present this evening.

### **OTHER REPORTS**

### **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda. No comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

Council Services and Records Manager Torrez requested that item 3 and Council Member Tate requested that Item 15 be removed from the Consent Calendar.

**Action:** *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 2, 4-14 and 16, as follows:*

2. **GENERAL FUND RESERVE INVESTMENT GUIDELINES**

**Action:** ***Referred** Preliminary “General Fund Reserve Investment Guidelines” to the Economic Development Committee for Their Consideration.*

4. **COMMUNITY & CULTURAL CENTER PROPOSED USE POLICIES FOR SENIOR AND YOUTH ACTIVITIES AND NON-PROFIT GROUPS**

**Action:** ***Directed** Staff to Incorporate the Use Policies and Rates for Senior, Youth, and Non-Profit Group Use at the Community and Cultural Center.*

5. **APPROVE PURCHASE ORDERS FOR THE FURNISHINGS, FIXTURES, AND EQUIPMENT (FF&E) FOR THE NEW POLICE FACILITY**

**Action:** ***Authorized** the City Manager to Approve a Purchase Order in the Amount of \$28,030.87 to Verizon Telephone Company for the Installation of an Upgraded Phone System from Furniture, Fixtures and Equipment (FF&E) at the New Police Facility.*

6. **REIMBURSEMENT FOR UNDERGROUNDING OF OVERHEAD UTILITIES BY SHAW DEVELOPMENT (AKA: SHAW REAL ESTATE, INC.)**

**Action:** *1) **Appropriated** \$245,155 from the Unappropriated Underground Utility Fund Balance (350); and 2) **Approved** Reimbursement Agreement; Thereby Approving Reimbursement of \$22,711 to Developer, and Payment of \$222,444 to PG&E for Undergrounding Overhead Utilities along the South Side of Dunne Avenue West of Walnut Grove.*

7. **ACCEPTANCE OF MODIFICATIONS TO LIFT STATION B SEWAGE PUMP STATION**

**Action:** *1) **Accepted** as Complete the Modifications to Lift Station B Sewage Pump Station in the Final Amount of \$517,281.16; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder’s Office.*

8. **AWARD OF PROFESSIONAL SERVICES CONTRACT FOR LIFT STATION G SEWAGE PUMP STATION**

**Action:** ***Authorized** the City Manager to Execute a Consultant Agreement for Design and Preparation of Plans, Specifications and Estimates for Lift Station G Sewage Pump Station with MH Engineering, Subject to Approval by the City Attorney.*

9. **COUNCIL RESOLUTION SUPPORTING GRANT FUNDING FOR INSTALLATION OF BICYCLE LOOP DETECTORS AT VARIOUS INTERSECTIONS ALONG MONTEREY ROAD – Resolution No. 5776**

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**Action:** **Approved** Resolution No. 5776, Supporting Grant Funding for the Installation of Bicycle Loop Detectors at Various Intersections Along Monterey Road, Between Watsonville Road and Burnett Avenue.

10. **INCREASE CUSTODIAL STAFF BY .5 POSITIONS TO STAFF THE AQUATICS CENTER**

**Action:** **Added** an Additional .5 Position in the Building and Maintenance Division to Cover Staffing Needs for the Aquatics Center.

11. **ADOPT ORDINANCE NO. 1661, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1661, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1601, NEW SERIES, TO ALLOW EXPANSION OF THE EXISTING RESIDENTIAL PLANNED DEVELOPMENT TO BE LOCATED ON THE NORTH AND SOUTH SIDES OF EAST CENTRAL AVENUE, TO R-1 (7000)/RPD. THE AMENDMENT INCLUDES THE ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR THE 86-LOT, 28.345-ACRE RPD (APNs 726-20-003 & 726-28-048 through 052).**

12. **ADOPT ORDINANCE NO. 1662, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1662, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA-03-15, FOR 26 LOTS LOCATED ON THE SOUTH SIDE OF EAST CENTRAL AVENUE NORTH OF EAST MAIN AVENUE, FOR MP 02-19: E. CENTRAL - WARMINGTON (SOUTH) (APN 726-20-003).**

13. **ADOPT ORDINANCE NO. 1663, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1663, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A RESIDENTIAL PLANNED DEVELOPMENT AND PRECISE DEVELOPMENT PLAN FOR A 16-UNIT SINGLE-FAMILY PROJECT LOCATED ON THE NORTH SIDE OF BARRETT AVENUE, APPROXIMATELY 70 FEET WEST OF HIGHWAY 101. (APN 817-10- 002).**

14. **ADOPT ORDINANCE NO. 1664, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1664, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT FOR APPLICATION MP-02-20: BARRETT-DITRI (APN 817-10- 002).**

**16. MINUTES FOR SPECIAL CITY COUNCIL MEETING OF MARCH 24, 2004**

**Action:** *Approved the Minutes as submitted*

**3. MARCH 2, 2004 SPECIAL MUNICIPAL ELECTION – CERTIFIED STATEMENT OF ELECTION RESULTS – Resolution No. 5775**

Council Services & Records Manager Torrez informed the Council that before the Council is a revised Resolution that incorporates the actual vote on ballot Measure C, the City's Residential Development Control System. She advised the Council that the numbers are slightly off. She is working with the Registrar of Voters to ensure that the correct votes are incorporated in the resolution. She requested that she be given the flexibility to ensure that the votes are correctly reflected in the resolution.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council unanimously (5-0) Adopted amended Resolution No. 5775, Reciting the Facts of the Special Municipal Election of March 2, 2004 Relating to the Residential Development Control System (RDCS) Ballot Measure C, authorizing the City Clerk to incorporate the final votes into the resolution.*

Council Member Tate expressed his appreciation to the community for its support of Measure C, noting that there was no opposition to the Measure.

**15. MINUTES FOR SPECIAL CITY COUNCIL MEETING OF MARCH 17, 2004**

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council, on a 4-0-1 vote with Council Member Tate abstaining, Approved the Minutes as submitted*

***City Council Action (Continued)***

**CONSENT CALENDAR:**

**Action:** *On a motion by Council Member Chang and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) Approved Consent Calendar Item 17, as follows:*

**17. ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9345, TROVARE PHASE III – Resolution No. 5777**

**Action:** *1) Adopted Resolution No. 5777, Accepting the Subdivision Improvements Included in Tract 9345, Commonly Known as Trovare Phase II; and 2) Directed the City Clerk to File a Notice of Completion with the County Recorder's Office.*

***Redevelopment Agency Action***

**CONSENT CALENDAR:**

**Action:**        *On a motion by Agency Member Chang and seconded by Vice-chairman Sellers, the Agency Board unanimously (5-0) **Approved** Consent Calendar Item 18, as follows:*

**18.    LEASE WITH THE CALIFORNIA YOUTH SOCCER ASSOCIATION (CYSA)**

**Action:** *1) **Approved** a New Lease Agreement with CYSA for the Property Located at 16545 Murphy Avenue; and 2) **Directed** the Executive Director to do Everything Necessary and Appropriate to Execute the New Lease Agreement.*

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:**        *On a motion by Council/Agency Member Chang and seconded by Mayor Pro Tempore/Vice-chair Sellers, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 19, as follows:*

**19.    MINUTES OF JOINT REGULAR REDEVELOPMENT AGENCY AND SPECIAL CITY COUNCIL MEETING OF MARCH 24, 2004**

**Action:** ***Approved** the Minutes as submitted*

## ***Redevelopment Agency Action***

### **OTHER BUSINESS:**

**20.    CHAMBER OF COMMERCE QUARTERLY ECONOMIC DEVELOPMENT PARTNERSHIP (EDP) REPORT**

Director of Business Assistance and Housing Services Toy presented the staff report.

Chairman Kennedy opened the floor to public comment.

John Varela indicated that two members of the Chamber's Economic Development team would inform the Agency what its Chamber investment has been and to the economic development partnership.

Bob Martin, Director of Marketing, thanked the Agency for funding this program. He stated that the Chamber is off and running and would be presenting its first quarter obligatory report on where the Chamber is. He indicated that the Chamber's Economic Development Committee (EDC) has developed the partnership with the funding provided by the City as well as funding from in kind service and cash that the Chamber has provided in order to attract new businesses to Morgan Hill, support existing businesses within the community, and to promote/market the overall welfare of the city, its citizens and its enterprises. He noted that the City funded \$125,000 and that the Chamber has matched this amount. The EDC is operating against a budget of \$295,000. The EDC is looking for private business

partnerships. He informed the Board that he, John Varela, and members of the overall community who volunteer on the EDC are actively involved in three prongs to their mission: 1) engage and pursue immediate opportunities as they relate to business attraction; 2) augment the City's and Chamber's marketing plan and create objectives and tactics that would meet the shareholders goals; and 3) develop a program that would encourage and develop funds from private enterprise partners. He addressed the 2004 operating budget and activities. He indicated that the EDC is actively engaged with businesses who are interested in partnering and providing some funding.

Mr. Varela addressed attraction and retention. He indicated that the EDC sent out approximately 1,500 business surveys last summer. He stated that approximately 200 of these surveys were returned. The EDC will be contacting these individuals as well as the businesses who did not respond. Since the Chamber launched the partnership agreement in March, he has made six presentations and that EDC expects a tremendous response to the partnership agreement. He said that the EDC expects to spend more time with Agency Members to explain how both parties can work together.

Alex Kennett, EDC Chair, indicated that the EDC is up and running and that a quarterly report has been presented to demonstrate what the City's investment has accomplished. A goal is to make this operation completely self sufficient so that the City will not have to provide financial support in the future.

Chairman Kennedy indicated that the Santa Clara County Cities Association has appointed a subcommittee of its members to focus on economic development as well, noting that he is serving on this committee. He said that this committee is looking for some business leaders to be a part of this effort. He stated that he would like to meet with the Chamber's EDC to see how efforts can be coordinated.

No further comments were offered

**Action:**        *No Action Taken.*

## ***City Council and Redevelopment Agency Action***

### **PUBLIC HEARINGS:**

#### **21.    WATSONVILLE ROAD TEACHER HOUSING PROJECT *Resolution Nos. 5778 and MHRA-250***

Business Assistance and Housing Services Manager Maskell presented the staff report.

Mayor/Chairman Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Acting as City Council:**

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**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5778, Approving Disposition and Development Agreement (DDA) and Loan Agreement.*

**Acting as Redevelopment Agency:**

**Action:**        *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Board unanimously (5-0) **Adopted** Resolution MHRA-250, Approving Disposition and Development Agreement (DDA) and Loan Agreement.*

**Action:**        *On a motion by Agency Member Tate and seconded by Vice-chairman Sellers, the Agency Board unanimously (5-0) **Authorized** the Executive Director to do Everything Necessary to Execute and Implement the Agreements.*

## ***City Council Action***

### **PUBLIC HEARINGS:**

22.    **ZONING AMENDMENT, ZA-03-10; DEVELOPMENT AGREEMENT, DA-03-06: WATSONVILLE-SOUTH COUNTY HOUSING** (Continued from 3/24/04) – ***Ordinance Nos. 1666 and 1667, New Series***

Director of Community Development Bischoff indicated that he would present the staff reports for items 22 and 23 as one staff report. He proceeded to present the staff report for both items.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1666, New Series, the Zoning Amendment Ordinance.*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Carr, the City Council **Introduced** Ordinance No. 1666, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R-2 3,500 TO R-2 3,500/RPD RESIDENTIAL PLANNED DEVELOPMENT OVERLAY AND ADOPTION OF A PRECISE DEVELOPMENT PLAN FOR A ONE ACRE PARCEL LOCATED ON THE NORTHWEST CORNER OF WATSONVILLE ROAD AND CALLE SUENO (APPLICATION ZA-03-10: WATSONVILLE – SOUTH COUNTY HOUSING APN 767-23-017), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

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**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Seller, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1667, New Series, the Development Agreement Ordinance.*

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1667, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING DEVELOPMENT AGREEMENT, DA 03-06 FOR MP 02-26: WATSONVILLE- SOUTH COUNTY HOUSING (APN 767-23-017), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

**23.     SUBDIVISION, SD-03-08: WATSONVILLE-SOUTH COUNTY HOUSING – Resolution No. 5779**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5779, Approving the Subdivision.*

**24.     DEVELOPMENT AGREEMENT AMENDMENT DAA-00-12: EAST DUNNE-GREWAL – Ordinance No. 1668, New Series**

Council Member Chang indicated that she has a conflict of interest on this item. Therefore, she would recuse herself from this item and stepped out of the Council Chambers.

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Council Member Chang absent, **Waived** the Reading in Full of Ordinance No. 1668, New Series, the Development Agreement Amendment Ordinance.*

**Action:**        *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Tate, the City Council **Introduced** Ordinance No. 1668, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1605, NEW SERIES, TO AMEND THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-00-02: EAST DUNNE - GREWAL TO ALLOW FOR A FIFTEEN (15) MONTH***



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***EXTENSION OF TIME (APN 728-11-026), by roll call vote: AYES: Carr, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Chang.***

Council Member Chang resumed her seat on the dais.

**25. GENERAL PLAN AMENDMENT, GPA-04-01: WRIGHT-CITY OF MORGAN HILL/ ZONING AMENDMENT, ZA-04-03: CITY OF MORGAN HILL-ZONING MAP CORRECTIONS – Resolution No. 5780 and Ordinance No. 1669, New Series**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy indicated that the property owner/developer for the Watsonville site had previously expressed concern about the zoning for the property. He inquired whether the issues have been resolved.

Mr. Bischoff stated that he was not familiar with any discussions that the developer has had with the zoning.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5780, Approving the General Plan Amendment.*

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1669, New Series.*

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1669, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING FOR 120 WRIGHT AVENUE, AN 8,240 SQUARE FOOT LOT FROM R1-7,000 TO R3 AND AMENDING THE ZONING FOR 4.3 ACRES OF AN 8.3 ACRE LOT LOCATED ON MONTEREY ROAD, APPROXIMATELY 700 FEET NORTH OF WATSONVILLE ROAD FROM R3 TO R2-3,500. (APN 764-14-003 & APN 767-23-016, ZA-04-03: CITY MORGAN HILL-ZONING MAP CORRECTIONS), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

**26. GENERAL PLAN AMENDMENT, GPA-03-02: LAND USE POLICY REQUIREMENT FOR SINGLE FAMILY HOUSING – Resolution No. 5781**

Director of Community Development Bischoff presented the staff report.

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Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No 5781, Approving General Plan Amendment.*

**27.     GENERAL PLAN AMENDMENT, GPA-03-10: MONTEREY-SOUTH COUNTY HOUSING – Resolution No. 5782**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Approved** the Mitigated Negative Declaration.*

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5782, Approving the General Plan Amendment.*

**28.     GENERAL PLAN AMENDMENT, GPA-02-03/ ZONING AMENDMENT, ZA-02-08: BUTTERFIELD-MORGAN HILL REDEVELOPMENT AGENCY – COURTHOUSE – Resolution No. 5783 and Ordinance No. 1670, New Series**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Adopted** Resolution No. 5783, Approving the General Plan Amendment.*

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1670, New Series.*

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1670, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM MULTI FAMILY MEDIUM R-3 TO PUBLIC FACILITIES, PF FOR APPLICATION ZA-02-08: BUTTERFIELD-CITY OF MORGAN HILL REDEVELOPMENT AGENCY - COURT HOUSE (APN 726-12-006), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

**29. GENERAL PLAN AMENDMENT, GPA-02-04/ZONING AMENDMENT, ZA-02-10: EDMUNDSON-MORGAN HILL REDEVELOPMENT AGENCY INDOOR RECREATION CENTER (IRC) – Resolution No. 5784 and Ordinance No. 1671, New Series**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, City Council unanimously (5-0) **Adopted** the Mitigated Negative Declaration/Mitigation Monitoring Program.*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Adopted** Resolution No. 5784, Approving the General Plan Amendment.*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council unanimously (5-0) **Waived** the Reading in Full of Ordinance No. 1671, New Series, the Zoning Amendment Ordinance.*

**Action:** *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council **Introduced** Ordinance No. 1671, New Series, by Title Only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT FROM R2-3,500 TO PUBLIC FACILITIES ON AN 8.49-ACRE SITE LOCATED ON THE NORTH SIDE OF EDMUNDSON AVENUE AT THE SOUTHEAST SIDE OF COMMUNITY PARK FOR APPLICATION ZA-02-10: EDMUNDSON – MORGAN HILL REDEVELOPMENT AGENCY-INDOOR RECREATION CENTER (IRC) (APNS 767-18-025 & -037), by roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

## ***City Council Action***

### **OTHER BUSINESS:**

**30. COMMUNITY INDOOR RECREATION CENTER (IRC) APPROVAL OF DESIGN DEVELOPMENT**

Deputy Director of Public Works Struve presented the staff report, indicating that the Council appointed an IRC subcommittee which has formed a recommendation being brought forward to the Council this evening. He indicated that the IRC subcommittee's recommendation has been reviewed and endorsed by the Parks & Recreation Commission and by the Youth and Senior Advisory Committees. The

recommendation is that the Council approves the completion of the design development phase and that the City proceeds with the next phase of design, the preparation of construction documents. He indicated that in February or March of 2005, the IRC would be breaking ground.

Janet Tam, project architect, indicated that the project is far along and that adjustments have been made to bring the project into budget. She addressed the site plan (including space for the skate park), circulation, parking, landscaping, floor plan (52,000 square feet), and building elevation (materials, elements, colors). She requested that the Council approve proceeding with the next phase, the construction documents.

Mr. Struve addressed the project's budget and the economic analysis. He informed the Council that the IRC subcommittee supported value engineering decisions in order to keep the project within budget. If items were value engineered out of the project, these items are being recorded in order to be able to reincorporate them if funding becomes available. He addressed the economic cost recovery analysis for the project. He stated that the analysis shows that in the first year of operation there would be a shortfall in the operating cost above revenues of \$92,000. In the second year, the project would go into a positive situation of \$8,000, progressively getting better until the fourth and fifth year when it flattens out. The IRC subcommittee made sure to include the site operation maintenance costs in the economic analysis. He indicated that the City compared proposed fees for the center with the Monterey Sports Center, the Roseville Sports Center and the Mill Valley Community Center. He stated that the City is charging slightly over the Monterey Sports Center's cost for youths, teens, seniors and families on a daily basis. The City is substantially under the Roseville Sports Center and the Mill Valley Community Center fees. Therefore, City staff and the IRC subcommittee believe that the City has implemented the appropriate fees. He informed the Council that the project is on schedule.

Council Member Tate said that the economic analysis revolves around specific components such as the aerobics or the gymnasium and identified how much these components would make. However, he does not have an idea of what it would cost to run these components. He said that he could not look at the analysis and review each component to determine which components are giving the City the most profits and which are costing the City.

Recreation and Community Services Manager Spier said that staff did not break down the operating cost for the aerobics room or the gym because staff is basing the information on a pass. Therefore, the performance for the gym, the senior portion in the youth wing, are part of the pass and subsidized programming. When the Sports Management Group and the YMCA conducted their analysis in November 2001, they found that 47% of the users made decisions to join with a pass fee if there was a gym present. She indicated that staff could look at this information and break these factors down. She stated that the gym, the aquatics, senior and youth areas are part of the daily pass fee. She said that staff could return and present the Council with a percentage of the daily fee that would not be captured if the City did not include these components.

Council Member Tate said that he was specifically interested in the gym because it is a large component of the IRC. He has been led to believe that this component was not a money maker. He inquired why

the City is looking at including a gymnasium as it is an expensive component to build if the City is not going to make money on it.

Ms. Spier said that when the City started the process of planning the pieces of the core facility, the public and the community made a determination that the gym was third on the core list of space needs. This is how staff determined where the City's programming would come from. She indicated that senior and the youth subsidized wings were dependent on the gym to provide multi use space. She stated that \$120,000 was attributed to the 2<sup>nd</sup> and 3<sup>rd</sup> year as revenue capture because the gym was included with the assumption that youth and senior programs would be subsidized. She said that the City could charge more for youth and leagues. Therefore, this ended up being a core programming area for these two populations.

Mayor Pro Tempore Sellers said that in addition to the fact that the gym was identified as a key need; the IRC subcommittee asked this question as well. The response was that in and of itself, the gym does not make money but that it helps attract in other areas.

Mayor Kennedy said that it was found with the aquatics center that the construction manager, Nova Systems, did an excellent job in helping the City cut costs out of the project in value engineering. He inquired whether Nova Systems was on board with this project.

Mr. Struve indicated that Nova Systems was initially used to perform cost reviews and to perform a cost estimate review. He stated that staff is ready to bring them on board should the Council approve to move forward with the construction document phase.

Mayor Pro Tempore Sellers thanked staff and the IRC committee members for all their work on this project. He indicated that the IRC committee held three separate meetings and reviewed every line item in detail to make sure that the Council's direction of keeping the cost on budget was met.

Mayor Kennedy opened the public comment.

Jan Guglielmo inquired why the Council is including a swimming pool in this facility when the City is building an aquatics center and that the swimming pool at Live Oak High School has recently been remodeled. She felt that there may be overkill on swimming pools. She inquired whether this swimming pool would draw from the other swimming pools as individuals can only use so many swimming pools, acknowledging that this swimming pool would be used by seniors and youth. She did not know how many swimming passes would be sold, and the profit margin to be made. She inquired whether Sobrato High School will have a gym that can be utilized, deferring the construction of the gymnasium.

Mayor Kennedy said that it was his understanding that the indoor pool will serve a market not covered by the aquatics center. He indicated that this will be a warm water swimming pool for seniors and small toddlers. He stated that water aerobics and rehabilitative programs can be provided year round with the indoor swimming pool. He felt that this was an important money making component of the IRC to help make it break even.

No further comments were offered.

City Manager Tewes said that the indoor swimming pool relates to the needs identified by the community, noting that this swimming pool would serve a different market niche than the outdoor pools. Further, the swimming pool will afford an opportunity to generate operating funds for the center.

Council Member Tate indicated that he understood that the swimming pool would help make money for the IRC. He said that he would like to see an IRC that supports the senior and youth needs. However, the City would be spending \$21 million for this project, including the cost for the land. He said that every time the Council looks at how the City would fund a library, the Council comes up \$3-4 million short and that it is not known where this money will come from. Without taking a look at this plan to see what can be cut, he did not know how much can be saved on the construction that can be put to other use(s). He felt that the gymnasium would be a desirable component as part of a recreation center. However, should the public be asked to rate what they would like to see constructed in terms of public facilities within Morgan Hill, he would like to see where the library would come up on the list. Therefore, he could not support moving forward with the IRC until he sees a plan that he can agree with.

Mayor Kennedy felt that the Council would be able to find a way to construct both the library and IRC facilities. He stated that the Council has designated Council Member Tate and himself to return with a report on alternatives and funding sources for a new library in June 2004. They are working on this process and he was convinced that the City would be successful in moving forward with both projects without having to make further cuts. He noted that the City has significantly reduced the cost of this project in value engineering and that he would hate to see it cut further. He indicated that the Council could make the decision to proceed with the working drawings this evening without jeopardizing its decision. He felt that the Council could still make the decision to eliminate the indoor pool and/or the gymnasium in June 2004. Even if these two components of the IRC were eliminated, he felt that the drawings could still be used and would not be a wasted effort. He did not believe that cutting components out of the project is a decision that needs to be made today and can be made in June 2004. He recommended that the Council move forward with the engineering and the working drawings in order to keep the project on schedule. He noted that this was one of many projects that was part of the Visioning Process that the community has shown a strong desire to have (e.g., senior/youth center and a variety of recreational facilities). He felt that it was important to move forward with the IRC without jeopardizing or forestalling a decision in June 2004 that would still allow the Council to continue with a library. The Council could make a decision to down scope the IRC facility in June, if necessary.

Council Member Carr thanked the subcommittee and staff for all their hard work and value engineering as these can be difficult decisions to make. He also thanked staff for their hard work with the seniors and youth advisory committees. He indicated that the Council was adamant about conducting outreach efforts in order to determine the needs of youths and seniors. He felt that the design addressed these needs. However, he had a similar concern as Council Member Tate. He said that he reluctantly supported moving forward with the IRC the last time it was before the Council because the City was not necessarily spending more money. It was merely a check in point as to where the City was heading. It was his understanding that tonight's recommended action to proceed with construction documents is the

time the City will start spending significant dollars on this project. He indicated that the Council has stated at its retreat and to the public that the Council would be making funding and location decisions on the library by June 2004. He stated that he was not comfortable in spending additional dollars on other RDA projects until these decisions are made. He noted that Council Member Tate presented an update on the library and heard that the library is short in dollars. He felt that there may be a way to fund both projects. Since the Council/Redevelopment Agency has not had these discussions, he could not approve spending significant dollars on the construction documents for the IRC. He wanted to make sure that the Council makes the public comfortable that the City will be able to fund the library and the IRC.

Council Member Tate stated that he did not want to give the impression that the Council would be saving money on this project as the City has conducted a lot of value engineering to keep the cost at what was budgeted. He felt that the senior and youth IRC is needed in the community but that he wants to balance this project with that of the library project.

Mayor Pro Tempore Sellers indicated that further delays would add approximately \$250,000 in escalation costs and other costs. He felt that the City will have some flexibility in June 2004. He noted that the Council/Agency has made these kinds of decisions before. He said that the combination of need, momentum and the fact that the City would have continued flexibility should allow this project to proceed. He was confident that the Council would identify funds for the library. If not, the Council will still have options available. He felt that the need remains acute for these facilities and that funds would not necessarily be diminished. He reiterated that there would be increased costs with delaying the project, not to mention the momentum. He stated that he understood the concerns expressed by his colleagues. He urged the Council to proceed this evening as it is the right thing to do at this juncture.

**Action:**        *Mayor Pro Tempore Sellers made a motion, seconded by Council Member Chang, to **Approve** Subcommittee Recommendations for Final Design Development Documents.*

**Action:**        *Mayor Pro Tempore Sellers made a motion, seconded by Council Member Chang, to **Direct** Staff and Architect to Begin Construction Documents.*

Council Member Chang stated that it was her belief that the City will be able to build a library. She noted that originally, the library and IRC projects were planned together. She stated that she was disappointed to see that it is becoming a library versus an IRC project. She noted that this Council has proven that it can get results. She said that she was willing to take certain steps to construct both projects. She indicated that the Council will be able to eliminate certain programs from the IRC if needed. Therefore, she would like to proceed with staff recommended actions.

Council Member Tate agreed with Council Member Chang, indicating that he would like to find a compromise. He noted that the library design had to be scaled back from 40,000 square feet that it had in the Proposition 14 application. He was trying to find a way to scale back the IRC in order to be able to construct both projects.

Council Member Carr said that the Council has indicated that it wanted to build both projects. However, the City did not envision paying for the construction of the entire library. He noted that the Council has

not figured out how it would pay for the construction of the library and that he would like the Council to figure this piece out. He stated that he was not suggesting that the Council downscale the IRC as he did not know if it was necessary to do so today. However, the Council has not had the discussion of funding the library. He was confident that the Council would be able to figure out how to fund both projects, but that he was not willing to move forward on hope and placing significant resources on the table today and bet on hope that the Council will figure out a way to fund the library. He expressed concern that moving forward with the construction documents and spending significant resources on these documents, the Council will not be willing to have the discussion about how to downscale the IRC. He felt that the gym was a great component to the IRC. He would like to see the City figure out a partnership with the YMCA to make them a part of this process. He noted that these are questions that have not been answered and that the City has not finished these discussions. Therefore, he did not see the need to rush and spend the dollars today when there are so many questions yet to be answered.

Mr. Struve indicated that delaying the project for 2-3 months would increase the project's cost by approximately \$75,000, at a minimum, in escalation costs. He said that he has been advised that escalations have already occurred and that there could be more cost increases in the concrete/masonry and steel to be used for the project.

**Vote:**            *Both motions, as stated above, carried 3-2 vote with Council Members Carr and Tate voting no.*

**31.    URBAN LIMIT LINE STUDY – AMENDMENT OF SCOPE OF WORK TO ADD AN IMPLEMENTATION PROGRAM AND AMEND THE CONSULTANT CONTRACT WITH MOORE IACOFANO GOLTSMAN**

Mayor Kennedy requested that staff address the City's notification to the public and a genesis to the reason the City is undertaking this effort.

Director of Community Development Bischoff identified the genesis for the Urban Limit Line (ULL) study. He stated that the 2001 General Plan update included policy language that directed the City to undertake a study of a greenbelt within two years from adoption of the Plan. He indicated that over a year ago, staff came before the Council with a scope of work that provides for a program by which the City could establish a ULL and a greenbelt. The Council approved this scope of work and appointed a 16-member task force to evaluate the potential of a ULL and greenbelt. This task force is chaired by Mayor Kennedy and that Council Member Chang participates on this task force as well as two members of the Planning Commission. He indicated that a broad section of the community has been involved with this process. He indicated that the committee has met 14+ times over the course of a year and have made good progress in looking at where the ULL and greenbelt should be.

Mr. Bischoff indicated that the area that the committee has had most difficulty with is the southeast quadrant, east of Highway 101 and the vicinity of Tennant Avenue. One of the issues that the committee had a lot of difficulty with is the establishment of a ULL and a greenbelt without knowing the implications of it. As the scope of work was drafted by staff and approved by the Council, it was staff's assumption that a ULL would be established and defines what might be in a greenbelt. As part of a



subsequent effort, the City would figure out how it would be implemented. He informed the Council that the Committee did not feel comfortable with this approach and felt that they needed to know the implications of lands outside of the ULL and within a greenbelt. He stated that there was a sentiment on the committee that if any land is to be included in a greenbelt, it needed to be a permanent greenbelt. The only way that lands could be made permanent is by either acquiring the property located in the greenbelt or acquiring development rights from properties. He indicated that there were other committee members who felt that there were other ways to address this issue. He informed the Council that the committee felt that they needed to do more in terms of implementation before they could finalize the ULL and greenbelt areas.

Mr. Bischoff indicated that the item before the Council is to expand the scope of work to include a detailed implementation plan and deal with the southeast quadrant before making final decisions with respect to where the ULL and greenbelt should be. Regarding public notification, he stated once the committee reaches some preliminary consensus over where an ULL/greenbelt should be, a public workshop would be scheduled and the community would be invited to attend and provide input with regards to the committee's initial recommendations. He noted that the committee has not reached this point. He informed the Council that it was staff's intent that the City would do everything that it can to notify the public of the workshop to encourage individuals to provide input. He indicated that the ULL committee is open to the public and that the agendas for these meetings have been posted. He informed the Council that there has been quite a bit of interest in these committee meetings, having, on average, 20-30 individuals from the public attending these meetings. These individuals are actively participating in these meetings.

Mr. Bischoff stated that this would be the third time that the Council will address the implementation plan. At the last two meetings, the Council was presented with a detailed history of the project, its origin and the progress that the Committee has made to date. At the last Council meeting, the Council heard comments from several members of the committee with respect to their views on this project and where it should go. He discussed, in detail, the implementation plan being proposed by the committee and options for increased City Council involvement in the process. He stated that he received a call from a property owner in the southeast quadrant this afternoon indicating that she received a flier encouraging individuals from this area to attend this meeting. The flier suggests that the Council will be considering the use of a benefit assessment district for installing improvements in the southeast quadrant. He clarified that this action is not on the Council's agenda this evening. The committee will be suggesting that the Council investigate a number of alternatives for the development of the southeast quadrant; one of which may be the use of a benefit assessment district. However, he stated that there will be a number of other alternatives that will be evaluated as well. This will come as a recommendation to the Planning Commission and City Council in the future.

Mayor Kennedy clarified that the ULL Committee will prepare its proposed recommendation. These recommendations will be forwarded to the Planning Commission for their discussion and review; followed by review/discussion by the Council. He noted that nothing will be adopted until the Council takes this action. This is not expected to occur until late this year, if this action occurs.

Mr. Bischoff presented the committee's recommendation on how to proceed with the implementation plan. He stated that the committee is recommending that the scope of work be expanded to include an implementation plan but not to increase the consultant's budget in the process. He identified the 9 steps to the implementation plan for all parts of the sphere of influence of the City with the exception of the southeast quadrant: 1) survey five agencies with land preservation programs; 2) identify a full range of land preservation mechanisms; 3) evaluate options for modification of city and county land use policies and regulations; 4) assess funding sources for implementation of a greenbelt; 5) identify an order of magnitude range of easement/land acquisition costs for greenbelt areas; 6) identify staffing levels and administration for program implementation; 7) identify land acquisition principals and priorities; 8) assess potential intended and unintended impacts of the proposed implementation program; and 9) merge information from tasks 1-7 into a proposed implementation program.

Mayor Pro Tempore Sellers inquired how staff came up with the order of the implementation plan and whether there were preliminary decisions that need to be made that would limit the options or steer the committee in a specific direction.

Mr. Bischoff responded that the steps made sense to the committee in terms of their sequential order. He did not know whether there was anything set in stone that would necessitate following the sequential steps. He addressed the southeast quadrant of the City, indicating that this was the area that caused the committee the most concern. He stated that the committee recommends that the Council conduct a special planning study for the southeast quadrant area that would identify the following components: 1) Evaluate an alternative master planning technique and recommend a preferred alternative; 2) conduct a preliminary economic evaluation of alternative funding techniques for installation of needed infrastructure and greenbelt; 3) identify the timing and/or trigger mechanisms to be used for preparation of a master plan and implementation of infrastructure funding mechanism; and 4) identify policies and actions that should be included into the Morgan Hill General Plan. He addressed the final product for the southeast quadrant as a result of this effort is as follows: 1) A definition of the geographic area to be covered by the future master plan for the southeast area. 2) The types of uses to be accommodated in the area and the relevant acres to be assigned to each use. 3) The appropriate planning technique to be used to develop the land use plan for the area. 4) The appropriate means of funding installation of infrastructure needed to support development of the area and the phasing of those improvements. 5) The timing of the development of the land use plan for the area and installation of infrastructure. 6) The appropriate amendments to the general plan and other documents which will ensure the planning is carried out as approve by the document. He informed the Council that separate votes were taken: the early implementation for the city was recommended by the committee on a 16-0 vote; 2) the committee vote for the southeast quadrant was on 14-2 vote.

Mr. Bischoff indicated that there are certain assumptions that went into the proposal to expand the implementation plan for this project. One of the assumptions is that there would be five additional meetings of the full ULL committee and six meetings of the subcommittee formed to discuss the southeast quadrant with the expectation that the subcommittee would be reporting to the full committee. The second assumption for the southeast quadrant, is a plan for a plan and not the plan itself. The third assumption is that the implementation program would not address the mitigation for the conversion of prime agricultural land. The fourth assumption is that the contract with Moore Iacafono Golftsman will

be amended to reduce the amount of hours that they put into the project and shifts these hours to City staff. He addressed opportunities for the Council to be more involved in the process. It is staff's belief that this process might serve as a way to provide input to the committee, noting that three options included in the Council's agenda packet are as follows: 1) present three status reports to the Council as part of a regular Council agenda item and discuss them similarly as is being discussed this evening. Status reports would be provided with Council opportunities to review and comment on the preliminary economic analysis for the southeast quadrant area, review the subcommittees conclusions of the plans and recommendations for the southeast quadrant area, and review acquisition priorities/committee's reaction to the subcommittees recommendation; 2) The Council can be provided with two status report and conduct one workshop; 3) The Council can conduct two separate study sessions.

Council Member Tate referred to attachment B, step 7 of the implementation plan, noting that it indicates that there is to be an identification of the land acquisition principals and priority. He noted that these were to be brought to the City Council. He indicated that several steps are being recommended for the southeast quadrant under step 11. He inquired how this step blends in with the sequence of the original 9 steps.

Mr. Bischoff indicated that both steps would occur concurrently. He indicated that the workplan for the city, overall, would not relate to the southeast quadrant, stating that the southeast quadrant would be a separate process. He said that for the southeast quadrant, all that is being discussed is a "plan for a plan." Should the plan ultimately call for acquisition of easements or fee titles, the priorities could apply equally to the southeast quadrant. He clarified that the southeast quadrant area would not result in a plan but a framework for a plan.

Council Member Carr noted that staff talked about changing the consultant's contract so that the time is not increased and the budget would remain the same. However, there would be an increase of City staff time proposed. He inquired how the work load would be absorbed based on the work load staff already has.

Mr. Bischoff indicated that the City has had Ken Schreiber on board as a contract planner for some time working on this project. He stated that the Community Development Department has had in its budget funding for a senior planner position for some time now. He indicated that the City has been unsuccessful in finding a qualified candidate to fill this position. He stated that some of the monies for this position have been used to pay for Mr. Schreiber to assist with this project. He indicated that Mr. Schreiber's salary has not been incorporated into the contract with MIG. He said that Mr. Schreiber's hours and costs have gone up. Some of the additional costs would come from the \$20,000 contingency and would reduce the amount of work that is being performed by MIG. However, it would not cover all of the additional costs. He informed the Council that the subcommittee that will address the southeast quadrant has been appointment by Mayor Kennedy as follows: Alex Kennett, chair; Ann Beale; Tim Chiala; George Thomas and Joe Mueller.

Mayor Kennedy opened the floor to public comment.

Rocke Garcia indicated that he is a member of the Urban Limit Line (ULL) and General Plan Committees. He felt that the vote from the ULL committee tells it all as it was 14-2 and 16-0 vote. He indicated that the area of most concern as a citizen and home builder is the southeast quadrant. He said that his main issue is that the City has the best opportunity in the bay area to take a large area of approximately 1,200 acres and properly make long range plans this area. He felt that this would be an ultimate benefit for the existing farmers and landowners in the area. It will also be a great benefit to developers as individuals will know what they are buying. It was his opinion that the “plan for the plan” would be a 10-year process. He recommended that the City take its time as there are significant issues, especially with the nexus issue as far as a greenbelt and open space is concerned.

Mark Grzan felt that the work of the committee has taken far too long to achieve its objectives. He also felt that the controversy that exists is driven by self interest versus the interest of the residents of Morgan Hill. He said that further work will produce a product that will be unacceptable to the community. He said that the committee failed to preserve key areas that are vital to Morgan Hill’s rural character such as the area east of Hill Road. The committee proposes to place future development in close proximity to strategic and sensitive environmental areas such as having development along Coyote Creek. He felt that the committee has violated the wishes of the residents along Edmundson Road who spoke before the General Plan Task Force by allowing development along Edmundson Road. There has also been discussion well into the foothills at the eastern end of Tennant Avenue, a violation of the General Plan. He felt that it appears that it is the mission of the committee on how Morgan Hill can be developed as opposed to preserving it for future generations to come. He noted that members of the committee are property owners, holding properties in the area being considered and will directly profit from the decision it makes. He felt that a conflict of interest exists among committee members. He did not believe that the committee can come to a decision that the residents of the community will accept. He stated that the next phase looks at addressing compensation. He did not know how the Council can approve the work of this committee to move forward knowing that members will directly profit from the decision the Council makes. He noted that property owners are advocating moving ULL lines to include property lines of committee members. He felt that self interests have only influenced the decision making process. He felt that the ULL lines drawn in unincorporated areas in the County can be developed in accordance with county guidelines. He did not believe that the work of this committee would deprive any property owner of that which they already have, as the ULL does not prevent development. It was his belief that the work of this committee is over and that further action and the commitment of additional resources will produce an unacceptable product. He recommended that the Council terminate the committee’s work; taking the work or forming another committee to finalize the project. Should the Council vote to continue the committee’s work, it was his belief that Council and members of the committee could be subject to legal challenges due to potential conflicts of interest, especially when financial compensation is addressed.

Phyllis Pedrizetti, a 55-year resident in the southeast quadrant, indicated that she has not heard about the ULL. She inquired how this study would affect her, the cost to her, and whether it would impact the sale of her land. She requested notification of future meetings so that she can determine whether she supports or opposes the ULL. She did not know how this project would impact her or other property owners.

Joe Mueller said that what is being addressed is how to maintain the quality of life in Morgan Hill. He felt that it was important to look at how the City will grow and develop over the long term. He said that it was important to look at this in a larger scale so that you can look at the whole picture and plan it out. He acknowledged that this will be a long process as the southeast quadrant needs a framework to start this process. He disagreed with Mr. Grzan, and felt that it was important to include all parties and the public in order to make sure that the process is open, and includes everyone to make it successful. He stated that it was important to continue the work as these are difficult issues and involves longtime property owners and citizens on how to maintain the quality of life. What the committee has asked the Council to approve is a reasonable next step to keep the process moving forward.

Julia Borina Driscoll felt that there was a need for a thorough comparative business and financial analysis. She said that a comparison needs to be conducted that compensates adequately the property owners and serves the well being of Morgan Hill while addressing the needs of Morgan Hill's society on a simultaneous basis. She did not believe that the City is able to afford a greenbelt any longer.

Dan Puliafaco concurred that members of the community are able to attend the ULL meetings. However, he felt that the public is excluded from participating on each agenda item. As the committee addresses each agenda item, motions are made and voted upon. By the time the public has an opportunity to address the ULL committee members, the motion is passed. He stated that properties are the pensions of property owners. Establishing a greenbelt on property takes away property owners' pensions. He felt that the Tennant Avenue area is one of the best spots for a business park and development. He said that Tennant Avenue has become a major thoroughfare. He felt that the City needs to provide for future generations to be able to continue with their projects. With limited growth, he felt that the Council was placing a burden on future generations to be able to afford homes in the area.

Art Puliafaco, member of the ULL committee, felt that it was important for property owners to be on the committee as their input is important. Without property owners' input, he doubted that the city would have come up with a workable plan. He said that the residents in the City limits once had their lands in open space that they now want to protect that. These property values have gone up substantially by the growth control measure they are able to vote upon, where property owners outside the city limits are unable to vote on these issues. He indicated that the 14-2 vote was taken based upon staff's recommendation that there was 650 vacant industrial acres in the City. He indicated that this is not an accurate number and that the number is 450 acres, possibly less. This number determined how the committee voted as it appeared that there was an ample supply of vacant zoned land. If a vote was taken again, he felt that it would result in a different vote.

Jan Guglielmo, a 40-year community member, felt that many of the newcomers to Morgan Hill are only thinking of what they want and enjoy in Morgan Hill. She did not believe that the newcomers have concerns for the farmers or individuals who have lived here for many years. She felt that farmers are the true greenbelt; the ones who have taken care of the land, nurtured the land and truly care what is taking place. They would like to stay on the land if they can afford to do so. When they have to keep taking money out of a savings account every year to pay taxes, it tells them that they can no longer stay in farming. She felt that it was time for the Council to think about the individuals who reside on flat land

(e.g., San Pedro to Maple). She said that when the committee voted on an assessment district, 6 out of 17 committee members voted for an assessment district. The rest of the members did not believe that an assessment district was a good idea. She felt that the property owners should be contacted to see if they believe that an assessment district is a good idea. She did not believe that these property owners should be the ones to have to pay for an assessment district that would pay for a greenbelt for all of Morgan Hill to enjoy. If everyone wants to enjoy a greenbelt, she recommended that everyone work together and find a way to pay for it and make it fair.

Alex Kennett stated that he serves on the ULL committee and that he served on the recently completed Gilroy agricultural mitigation task force. He indicated that the task force took its recommendation to the Gilroy City Council in October 2003 and the task force had to start over again. In February, the task force broke down into a subcommittee mode. He has sent the results of the final document to Mayor Kennedy, Council Member Chang and Mr. Bischoff. He recommended that Gilroy's document be presented to the ULL committee on Monday. He felt that the subcommittee will be focused and will take everyone into consideration. Individuals in attendance would be allowed to provide input but would not be allowed to vote. He felt that the committee is on the right track and that it would be a shame to walk away from the work that has been completed to date.

No further comments were offered.

Mr. Bischoff said that it was his understanding that the Pedrizzetti's property, located on the north side of San Pedro area, is located within the City's urban growth boundary and that this land is not being considered as part of this study. He said that staff does not know what areas would be covered by the plan. Therefore, it would be difficult to know who would or would not be affected by the plan. He indicated that the ULL committee meetings are open to the public and are well attended. He said that at Council meetings, the ULL meetings could be announced or that staff would follow Council direction in terms of noticing. He said that the Mayor has expanded the opportunity for public comment the last few meetings at the beginning and end of meetings. He said that a 14-2 vote was taken and that a simple majority felt that the southeast area should be studied. One thing to be looked at is the possibility of a benefit assessment district. He clarified that no one voted for an assessment district and that all that was agreed to amongst other techniques, is that a benefit assessment district should be evaluated. He addressed the different ways of calculating vacant industrial lands. He said that staff identified that within the Morgan Hill Ranch project there is approximately 80 acres of undeveloped land and another 15 acres of developed land. In the Madrone Business Park, over half of that project is developed and that there was approximately 40+ acres vacant. Therefore, the City has land reaching approximately 150 acres that is in the city limits, properly zoned and has all services available. However, there are other industrial acres within the city and within the urban service area that are available for development. He indicated that there were a number of votes taken by the committee. A vote was taken in October 2003 by the committee not to designate an industrial park in the southeast quadrant but rather to say that there is approximately 200 acres in the vicinity of Tennant, east of the freeway.

Mayor Kennedy requested that a public notice be placed at the library, Morgan Hill Times and the Pinnacles of future subcommittee and standing committee meetings. He said that that with any meeting, committee members are faced with a balance of working through an agenda and giving the public

adequate time to speak. He stated that he has been trying to give every member of the public the opportunity to speak. However, with a 16 member committee and with all the property owners in attendance, it would result in very late meetings if everyone was allowed to speak. He noted that the ULL committee is heavily weighted in favor of property owners and that Mr. Puliafico serves on the committee. He felt that property owners have been given adequate representation and felt that the City was trying to do its best.

Council Member Chang did not believe that there were more than 200 parcels in the southeast quadrant. She suggested that an identified meeting schedule be sent to these property owners.

Mr. Bischoff informed the Council that the Morgan Hill Times prints the schedule for the ULL committee meetings. With respect to notification, should staff be required to do this kind of mail out, it should not be limited to the southeast quadrant but to everyone that is being affected by this plan. He indicated that staff would follow the direction of the Council. He said that one concern that the City Attorney may have is that there is risk that when you go beyond what is required by law and you miss notifying someone, there may be a potential claim of unequal treatment.

Mayor Pro Tempore Sellers stated that he would support modification to the scope of work as it is a recommendation of the entire committee. However, he was anxious about the progress and the ability to complete the scope of work in a timely manner.

Mayor Kennedy noted that Mr. Kennett and Mr. Mueller felt that the modified scope of work was doable.

Council Member Tate noted that there was a vote of 14-2 of ULL committee members to modify the scope of work. However, there was some question as to whether this was an accurate vote. He noted that the Council appointed this committee and placed its faith in this committee. He said that he would go along with the committee recommendation. He felt that the committee should answer the question of whether there needs to be additional Council involvement. If the Committee believes that the Council should be involved in a workshop or provide them guidance along the way, the Council should provide this guidance. If they are not asking for guidance, he would support the committee proceeding. He felt that what was in the original workplan of reviewing the priorities and policies derived was the right point in time for the Council to review the plan. He felt that this should apply to the southeast quadrant whether it is a plan for a plan or a plan, that addresses the policies and properties.

Council Member Carr agreed that the ULL committee is requesting a change in the scope of work. However, he expressed concern that the Council appoints an advisory body to give it some advice and that they request a change in the scope of work. It was his hope that the ULL committee understands that the Council is asking for advice and that ultimately the Council will be making a decision. He did not want to see a product recommended in October 2004 only to be rejected by the Council and then ask the committee to go back and redo the product. He felt that it was important for the Council to be involved in the process as the committee is given the ability to change the scope of work.

Council Member Tate felt that the committee should return to the Council with recommendations.

Mayor Kennedy did not know if you can draw a line if you do not know how the line is to be implemented. If the property owners do not know what the impacts will be, he did not know how they could buy into a line that crosses their property. It was determined early on by the committee that it had to work with the implementation plan as well as the establishment of the line. He felt that the committee was making good progress and that a line has been drawn around 75% of the City. He said that the southeast quadrant is a difficult area but that a committee is in place that will come up with the right solutions to the problem. He stated that this will be a difficult process but that he did not have any doubt that the committee would succeed.

Council Member Carr recommended that when the committee reaches the difficult/stalemate points, that the committee check in with the Council to seek advice/direction on the difficult decisions.

Mr. Bischoff informed the Council that there has been 3 occasions in the past 15 months when staff reported back to the Council on the progress of the committee. He said that staff staged check in points with Council to correspond with the achievements of the committees.

Council Member Tate stated that he would support staff's recommended action and recommended that the Council forward a request to the committee that it make a recommendation to the Council on how the Council can best be involved and help guide them.

Mayor Pro Tempore Sellers said that he was not as inclined to proceed with the workshop option because he did not know if it would be a productive use of the Council or committee's time in trying to get the Council up to speed on what they have been doing for 15 months. He would like the discussion to be centered on what kinds of reports and how often the reports should come to the Council. Regarding notification, he did not recommend that the City tie in specific dates as it would create other problems. He recommended that broad public notification be given for the next few sessions. He requested that the committee consider addressing the viability for large scaled industrial parks. He felt that it was vital that the process be predicated on mutual respect and participation. He said that there has been participation in this project but that it was his belief that respect has been strained at certain levels. If there are members who believe that the committee should be disbanded and believe that the individuals appointed to this committee are not the right individuals to serve on this committee, it may be incumbent upon on that individual/those individuals to recuse themselves because they may not be furthering the process. He felt that it was vital to have everyone who has an interest on the table at the beginning as you will not come up with a right decision or a decision that will get approved. This will result in a community decision and not a few individuals making a decision that is good for them.

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** Modification to the Scope of Work for the Urban Limit Line (Greenbelt) Study, requesting that the Committee Identify the Level of City Council Participation in the Implementation Program.*



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**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Approved** Amendment to the Contract with Moore Iacofano Goltsman (MIG).*

**Action:**        *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council unanimously (5-0) **Authorized** Use of the Contract's \$20,000 Contingency.*

### **32.    PURCHASING STUDY REPORT**

Assistant to the City Manager Dile presented the staff report, identifying the 21 recommendations in the final purchasing study report. She indicated that of the 21 recommendations, 3 require Council approval. She stated that the Finance & Audit Committee has reviewed the report and supports the recommendations with two changes: 1) the Municipal Code language to include requirements for staff to receive periodic price comparisons on service vendors every four months; and 2) the Municipal Code language to require department directors to sign off on any purchases over \$1,000. She said that staff requests that the Council approve the proposed changes in concept and direct staff to return with specific amendments to the Municipal Code.

Council Member Carr clarified that when the Finance & Audit Committee reviewed the study, it recommended that bids be solicited after the fourth time the same vendor is used and not every fourth months.

Council Member Tate complimented staff for the thorough presentation and the inclusion of back up information. He felt that it was a good piece of work.

Mayor Kennedy stated that he has been advocating for many years that the City redo its purchasing program and felt that this is a good step in the right direction.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council unanimously (5-0) **Accepted** the Report on the City of Morgan Hill Purchasing Function; **Considered** Staff Recommendation and Finance and Audit Subcommittee Feedback, correcting the section relating to soliciting bids after the fourth time the same vendor is used; and **Directed** Staff to Propose Changes to the Municipal Code.*

### **33.    POLICY FOR NAMING CITY FACILITIES**

Assistant to the City Manager Eulo presented the staff report.

Mayor Pro Tempore Sellers said that the Legislative Subcommittee felt that it was important to come up with a policy at this time as facilities are soon to come on line. He noted that the Legislative Subcommittee set the bar high for renaming existing facilities. If there are opportunities in the future,

the City may want to consider naming facilities. This does not mean that he wants to name everything in sight or go back and look at existing facilities. It was felt that if a policy is adopted, it would provide a guideline for naming city facilities in the future.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:** *On a motion by Council Member Chang and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** the Council Policy for Naming Facilities Recommended by the Legislative Subcommittee.*

### **34. CAMPAIGN STATEMENTS AND ELECTION COSTS**

City Attorney Leichter indicated that most of the Council Members would have a conflict of interest associated with this item. Therefore, the City will need to invoke the rule of necessity. She said that anyone who has a seat up for reelection this fall has a direct conflict of interest as well. Anyone whose seat is not open but is participating in the election may have a direct conflict of interest. She stated that even those who are undeclared at this point have a potential conflict of interest. She recommended that the City invoke the rule of necessity and draw straws to see which Council Members would get to participate.

Council Members Carr, Chang and Sellers were drawn to participate on this item.

City Manager Tewes presented the staff report, stating that the recommendation could potentially affect the financing of candidates; including the City Clerk. He indicated that this item is being brought to the Council's attention in light of the City's budget situation. He stated that the Council adopted a budget strategy that asks staff to reduce next year's expenditures from the base level by \$800,000. This required all departments to look carefully at all expenditures. He said that the Council has adopted a set of guidelines for how staff is to approach this such as looking at administrative efficiencies before reducing services. Among all City costs that are increasing, the cost of election/democracy is increasing four fold. He indicated that in November 2002, the municipal election cost the taxpayers \$12,061. Some of these costs are mandated by the County Registrar and some of are discretionary in nature. Staff has brought to the Council the discretionary issues this evening. He informed the Council that it has been the practice of the City of Morgan Hill to allow the taxpayers to pay for the cost of candidate statements that are published in the ballot. He stated that in 2002, the cost was a nominal amount. He said that these costs are changing significantly next year along with the mandated costs as it is estimated that it would cost the City over \$14,000 to fulfill the discretionary costs under certain assumptions. He informed the Council that the estimated overall election costs for November 2, 2004 will be \$53,000 (\$38,000 mandated fees and \$14,000 in discretionary costs). Staff is asking whether the Council wishes to consider any modifications to the discretionary policy.

Mayor Pro Tempore Sellers opened the floor to public comment. No comments were offered.

Mayor Pro Tempore Sellers said that this is a difficult issue as you want to promote democracy and improve access. He felt that ballot statements are a significant resource for candidates, particularly for

those who are not well funded. Should the City require 100% cost recovery, you would increase significantly the amount of money that City Treasurers and City Clerks would have to raise in order to have a ballot statement. He noted that the races of late for Council candidates have been under \$10,000. However, there have been cases in Morgan Hill where you see individuals spending up to \$20,000-\$25,000 on a campaign. He recommended that the City consider reducing/eliminating costs for the Clerk and Treasurer's offices. He said that for being less than 25% of the total cost of the election, the discretionary costs is a relatively small amount. He would support the Council and Mayor candidates bearing some of these costs, but not all of the costs. He did not support making the contribution so high that the City precludes individuals from seeking office.

Council Member Chang said that she reviewed the numbers presented by staff. In looking at how much she makes as a Council member (\$300/month or \$3,600/year), she has to pay taxes on this elected pay. This would result in her having approximately \$2,000 remaining for the year. She felt that this \$2,000 may just be enough to pay for expenses associated with conducting City business. She considers herself as a volunteer serving as a Council member. She did not believe that should have to pay to perform her elected seat as she has no financial gains from this seat. She stated that a few years ago, she did not support an increase in elected pay as she was not in office to make money; but to volunteer her time.

Council Member Carr expressed concern that at this dollar amount it would limit participation. He stated that for an under funded candidate, a candidate statement is a significant way to get their message out.

In response to Council Member Carr's question, City Manager Tewes indicated that it is not mandatory to submit a candidate statement.

Mayor Pro Tempore Sellers agreed that this may be an opportunity to bring in revenue, but felt that the discretionary numbers are small enough at this point that he did not see a huge increase in cost revenue savings to the city that would warrant cutting off access to the democratic process. He felt that the Council members participating in the discussion of this item were in concurrence that it does not want to charge for candidate statements.

**Action:**            *No action taken.*

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

Mayor Pro Tempore Sellers indicated that he has a conflict with the April 28, 2004 meeting. He requested that the Council consider canceling the last meeting of the month.

Council Members Carr and Tate supported holding the April 28, 2004 meeting.

**Action:**            *It was the consensus of the City Council to **hold** its April 28, 2004 meeting.*

Council Member Tate requested that the discussion of the Coyote Valley Specific Plan and looking at other means for Council involvement be agendized for a future meeting date.

Council Member Carr requested a status report from the Library subcommittee, requesting an update of the site selection process.

Council Member Chang requested that the Redevelopment Agency Fund Investment Guidelines be scheduled for a future Council meeting (e.g., economic development guidelines).

**Action:**        *On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency Member Carr, the City Council/Redevelopment Agency, unanimously (5-0) **agreed** to extend the meeting time beyond 11:00 p.m.*

### **RECONVENE TO CLOSED SESSION**

Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 11:05 p.m.

### **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 11:55 p.m.

### **CLOSED SESSION ANNOUNCEMENT**

City Attorney/Agency Counsel Leichter announced that authority was granted to defend the City on the appeal of the Bob Lynch Ford, Inc. v. Timothy Paulus et al case.

### **ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:57 p.m.

### **MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**